

106TH CONGRESS  
2D SESSION

# H.R. 4773

To provide for the conservation and rebuilding of overfished stocks of Atlantic highly migratory species of fish, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2000

Mr. SAXTON introduced the following bill; which was referred to the  
Committee on Resources

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## A BILL

To provide for the conservation and rebuilding of overfished stocks of Atlantic highly migratory species of fish, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Atlantic Highly Migra-  
5       tory Species Conservation Act of 2000”.

6       **SEC. 2. FINDINGS.**

7       The Congress makes the following findings:

8               (1) Highly migratory species of fish, including  
9       North Atlantic swordfish, species of Atlantic billfish,  
10       and Atlantic large coastal sharks, are overfished and

1       require greater conservation as confirmed by recent  
2       scientific assessments. In its most recent analysis,  
3       the Standing Committee on Research and Statistics  
4       of the International Commission for the Conserva-  
5       tion of Atlantic Tunas estimated that a number of  
6       key stocks of highly migratory species have less than  
7       the biomass needed to produce their respective max-  
8       imum sustainable yields. The 1999 SCRS stock as-  
9       sessment estimated that the North Atlantic sword-  
10      fish stock was at 65 percent of the necessary bio-  
11      mass to produce maximum sustainable yield. The  
12      1997 SCRS stock assessment estimated that the At-  
13      lantic blue marlin stock was at 24 percent, and the  
14      Atlantic white marlin stock was at 23 percent, of the  
15      necessary biomass to produce MSY. In its most re-  
16      cent stock assessment for Atlantic sailfish/spearfish,  
17      the SCRS estimated these stocks were at 62 percent  
18      of the necessary biomass to produce MSY. Also, the  
19      National Marine Fisheries Service has identified  
20      North Atlantic swordfish, Atlantic blue marlin, At-  
21      lantic white marlin, Atlantic sailfish/spearfish, and  
22      other highly migratory species of fish as overfished.

23           (2) A reduction in the mortality of undersized  
24      swordfish will contribute substantially to the rebuild-  
25      ing of North Atlantic swordfish as confirmed by a

1 1998 SCRS report that expressed “concern about  
2 the high catches (landings plus discards) of small  
3 swordfish” and “emphasized that gains in the yield  
4 could accrue if fishing mortality on small fish could  
5 be further reduced.”

6 (3) In 1998, ICCAT adopted a resolution di-  
7 recting the SCRS to develop options for rebuilding  
8 North Atlantic swordfish to levels that would  
9 produce the maximum sustainable yield, including  
10 alternative methods for reducing small fish mor-  
11 tality, for consideration at the ICCAT meeting in  
12 1999.

13 (4) Reducing the mortality of species of Atlan-  
14 tic billfish, including Atlantic blue marlin, Atlantic  
15 white marlin, and Atlantic sailfish/spearfish, will  
16 contribute substantially to the rebuilding of these  
17 stocks.

18 (5) In 1990, ICCAT encouraged its member  
19 states to take appropriate measures within their na-  
20 tional jurisdictions to protect small swordfish, in-  
21 cluding the establishment of time and area closures.

22 (6) Significant reductions in the mortality of ju-  
23 venile swordfish, Atlantic white marlin, Atlantic blue  
24 marlin, Atlantic sailfish/spearfish, species of Atlantic  
25 large coastal sharks, and other highly migratory spe-

1       cies of fish within the exclusive economic zone of the  
2       United States can be achieved by the design and im-  
3       plementation of discrete, scientifically based time-  
4       area closures for pelagic longline fishing.

5           (7) A credible, scientifically based time-area clo-  
6       sure for pelagic longline fishing that would achieve  
7       reductions in the bycatch and mortality of overfished  
8       highly migratory species within the United States  
9       exclusive economic zone will provide a model for ap-  
10      plying the same conservation concept more broadly  
11      in international waters through ICCAT in further  
12      pursuit of the goal of rebuilding the stocks of these  
13      species.

14          (8) The time-area closures for pelagic longline  
15      fishing within the United States exclusive economic  
16      zone that will achieve the conservation objectives for  
17      swordfish, billfish, and large coastal sharks in the  
18      Atlantic Ocean and Gulf of Mexico and that will re-  
19      duce conflicts between commercial and recreational  
20      fishermen will result in harmful economic impacts on  
21      United States commercial fishermen who engage in  
22      pelagic longline fishing, as well as their families.  
23      Such harmful economic impacts can be offset by a  
24      fair and equitable buyout of the permits and licenses  
25      of certain pelagic longline fishing vessels.

1           (9) There is a great need for the National Ma-  
2       rine Fisheries Service to conduct additional scientific  
3       research, in cooperation with pelagic longline fishing  
4       vessels, to identify the uses and configurations of pe-  
5       lagic longline fishing gear that are most effective in  
6       reducing bycatch.

7   **SEC. 3. PURPOSES.**

8       The Congress declares that the purposes of this Act  
9   are—

10           (1) to expand the scientific knowledge and un-  
11       derstanding of Atlantic highly migratory species and  
12       the fisheries of the United States, including rec-  
13       reational and commercial research, both design and  
14       deployment;

15           (2) to contribute to the conservation and re-  
16       building of overfished stocks of highly migratory spe-  
17       cies, including North Atlantic swordfish, Atlantic  
18       white marlin, Atlantic blue marlin, Atlantic sailfish/  
19       spearfish, and Atlantic large coastal sharks, through  
20       reductions in mortality and the protection of those  
21       areas that may occur within the exclusive economic  
22       zone of the United States, to levels that will produce  
23       maximum sustainable yield, in compliance with  
24       United States obligations under the International  
25       Convention for the Conservation of Atlantic Tunas

1 and consistent with section 301(a)(1) of the Magnu-  
2 son-Stevens Act (16 U.S.C. 1851(a)(1)) and section  
3 304 of the Magnuson-Stevens Act (16 U.S.C. 1854);  
4 (3) to minimize socio-economic impacts on  
5 United States commercial fishermen and their fami-  
6 lies, consistent with section 301(a)(8) of the Magnu-  
7 son-Stevens Act (16 U.S.C. 1851(a)(8)) and the re-  
8 quirements of chapter 6 of title 5, United States  
9 Code (popularly known as the Regulatory Flexibility  
10 Act), resulting from the conservation actions taken  
11 under this Act;

12 (4) to ensure a sustainable fishery and a sus-  
13 tainable United States pelagic longline fishery for  
14 the future;

15 (5) to minimize both bycatch, including regu-  
16 latory discards, consistent with the Magnuson-St-  
17evens Act and the international obligations of the  
18 United States, and marine mammal and sea turtle  
19 mortality as required by the Marine Mammal Pro-  
20tection Act of 1972 and the Endangered Species Act  
21 of 1973;

22 (6) to support and encourage the United States  
23 Government's efforts to obtain international agree-  
24ments that provide for effective fishery conservation  
25 and management consistent with the policies set

1       forth in section 2(c) of the Magnuson-Stevens Act  
2       (16 U.S.C. 1801(c)) and to provide the necessary  
3       leadership for achieving greater international con-  
4       servation of highly migratory species;

5               (7) to reduce conflicts within the exclusive eco-  
6       nomic zone of the United States between the pelagic  
7       longline and recreational fisheries for highly migra-  
8       tory species; and

9               (8) to minimize bycatch, and to the extent pos-  
10      sible, to prevent displacement of fishing effort result-  
11      ing from the conservation actions under this Act.

12 **SEC. 4. POLICY.**

13       It is declared to be the policy of the Congress in this  
14      Act that, consistent with the Magnuson-Stevens Act, all  
15      United States fishermen shall be treated fairly in achiev-  
16      ing national and international fishery conservation and  
17      management objectives and obligations for highly migra-  
18      tory species of the Atlantic Ocean and Gulf of Mexico.

19 **SEC. 5. DEFINITIONS.**

20       In this Act, the following definitions apply:

21               (1) **BILLFISH.**—The term “billfish” means blue  
22      marlin, spearfish, sailfish, and white marlin.

23               (2) **BYCATCH.**—The term “bycatch” means fish  
24      that are harvested in a fishery, but that are not sold  
25      or kept for personal use, and includes economic dis-

1 cards and regulatory discards. The term does not in-  
2 clude fish released alive under a recreational catch  
3 and release fishery management program.

4 (3) COMMERCIAL FISHING.—The term “com-  
5 mercial fishing” means fishing in which the fish har-  
6 vested, either in whole or in part, are intended to  
7 enter commerce through sale, barter, or trade.

8 (4) ELIGIBLE PERMIT HOLDER.—The term “el-  
9 igible permit holder” means the person or group of  
10 persons who, on the date of enactment of this Act,  
11 holds a Directed Swordfish Limited Access Permit  
12 or a Tuna Longline Permit with Incidental Sword-  
13 fish and Shark that was issued based on the land-  
14 ings of an eligible vessel.

15 (5) ELIGIBLE VESSEL.—The term “eligible ves-  
16 sel” means each vessel listed in section 7(a) of this  
17 Act.

18 (6) FISH.—The term “fish” means finfish, mol-  
19 lusks, crustaceans, and all other forms of marine  
20 animal and plant life other than marine mammals  
21 and birds.

22 (7) FISHING.—The term “fishing” means—

23 (A) the catching, taking, or harvesting of  
24 fish;



1 (B) the attempted catching, taking, or har-  
2 vesting of fish;

3 (C) any other activity which can reason-  
4 ably be expected to result in the catching, tak-  
5 ing, or harvesting of fish; or

6 (D) any operations at sea in support of, or  
7 in preparation for, any activity described in  
8 subparagraphs (A) through (C).

9 The term does not include any scientific research ac-  
10 tivity that is authorized by the Secretary.

11 (8) FISHING VESSEL.—The term “fishing ves-  
12 sel” means any vessel, boat, ship, or other craft  
13 which is used for, equipped to be used for, or of a  
14 type which is normally used for—

15 (A) fishing; or

16 (B) aiding or assisting one or more vessels  
17 at sea in the performance of any activity relat-  
18 ing to fishing, including but not limited to prep-  
19 aration, supply, storage, refrigeration, transpor-  
20 tation, or processing.

21 (9) GEODESIC.—The term “geodesic” means  
22 the shortest line between two points that lies on the  
23 surface of the Earth.

1           (10) HIGHLY MIGRATORY SPECIES.—The term  
2           “highly migratory species” means tuna species, bill-  
3           fish, oceanic sharks, and swordfish.

4           (11) HIGHLY MIGRATORY SPECIES DEALER.—  
5           The term “highly migratory species dealer” means  
6           any person, including foreign dealers in the territory  
7           of the United States, who purchases, trades for, or  
8           barters for the receipt of any (whether imported or  
9           domestic and regardless of origin) Atlantic highly  
10          migratory species for any commercial purpose (in-  
11          cluding selling, trading, or bartering).

12          (12) ICCAT.—The term “ICCAT” means the  
13          International Commission for the Conservation of  
14          Atlantic Tunas.

15          (13) MAGNUSON-STEVENSON ACT.—The term  
16          “Magnuson-Stevens Act” means the Magnuson-Ste-  
17          vens Fishery Conservation and Management Act (16  
18          U.S.C. 1801 et seq.).

19          (14) MID-ATLANTIC BIGHT.—The term “mid-  
20          Atlantic bight” means all waters of the Atlantic  
21          Ocean north of 35 degrees north latitude and west  
22          of 71 degrees west longitude.

23          (15) MSY.—The term “MSY” means maximum  
24          sustainable yield.

1           (16) OBSERVER.—The term “observer” has the  
2           meaning that term has in the Magnuson-Stevens Act  
3           (16 U.S.C. 1801 et seq.).

4           (17) OVERFISHED.—The term “overfished” has  
5           the meaning that term has in the Magnuson-Stevens  
6           Act (16 U.S.C. 1801 et seq.).

7           (18) PELAGIC LONGLINE FISHING.—The term  
8           “pelagic longline fishing” means a method of fishing  
9           that uses any fishing gear consisting of a length of  
10          line suspended horizontally in the water above the  
11          bottom from lines attached to surface floats and to  
12          which gangions and hooks are attached and are used  
13          to target pelagic species.

14          (19) PERSON.—The term “person” means any  
15          individual, corporation, partnership, association, or  
16          other entity (whether or not organized or existing  
17          under the laws of any State).

18          (20) RECORD ADDRESS.—The term “record ad-  
19          dress” means the address of record for each permit  
20          holder and highly migratory species dealer as main-  
21          tained in the National Marine Fisheries Service’s  
22          databases.

23          (21) RECREATIONAL FISHING.—The term “rec-  
24          reational fishing” means fishing for sport or pleas-  
25          ure.

1           (22) SCRS.—The term “SCRS” means the  
2       Standing Committee on Research and Statistics of  
3       ICCAT.

4           (23) SECRETARY.—The term “Secretary”  
5       means the Secretary of Commerce or a designee of  
6       such Secretary.

7   **SEC. 6. CLOSURE OF HIGHLY MIGRATORY SPECIES CON-**  
8                   **SERVATION ZONES.**

9       (a) ATLANTIC CONSERVATION ZONE FOR HIGHLY  
10   MIGRATORY SPECIES.—No person may engage in pelagic  
11   longline fishing in the Atlantic Conservation Zone For  
12   Highly Migratory Species. For purposes of this subsection,  
13   such zone is the area of the exclusive economic zone, sea-  
14   ward of the baseline from which the territorial sea is meas-  
15   ured, and shoreward of the outer boundary of the exclusive  
16   economic zone that is enclosed by a series of geodesics con-  
17   necting in succession the points at the following coordi-  
18   nates:

19           (1) 26 degrees 30 minutes north latitude, 82  
20       degrees 0 minutes west longitude.

21           (2) 24 degrees 0 minutes north latitude, 82 de-  
22       grees 0 minutes west longitude.

23           (3) 24 degrees 0 minutes north latitude, 81 de-  
24       grees 08 minutes west longitude.

1           (4) 27 degrees 52 minutes north latitude, 79  
2           degrees 30 minutes west longitude.

3           (5) 31 degrees 0 minutes north latitude, 79 de-  
4           grees 0 minutes west longitude.

5           (6) 33 degrees 0 minutes north latitude, 76 de-  
6           grees 30 minutes west longitude.

7           (7) 33 degrees 51 minutes north latitude, 78  
8           degrees 23 minutes west longitude.

9           (b) GULF OF MEXICO CONSERVATION ZONE FOR  
10       SWORDFISH.—Every year, during the period of January  
11       1 through Memorial Day, no person may engage in pelagic  
12       longline fishing in the Gulf of Mexico Conservation Zone  
13       For Swordfish. For purposes of this subsection, such zone  
14       is the area of the exclusive economic zone enclosed by a  
15       series of geodesics connecting in succession the points at  
16       the following coordinates:

17           (1) 30 degrees 0 minutes north latitude, 87 de-  
18           grees 30 minutes west longitude.

19           (2) 30 degrees 0 minutes north latitude, 86 de-  
20           grees 0 minutes west longitude.

21           (3) 29 degrees 0 minutes north latitude, 86 de-  
22           grees 0 minutes west longitude.

23           (4) 29 degrees 0 minutes north latitude, 87 de-  
24           grees 30 minutes west longitude.

1       (c) GULF OF MEXICO CONSERVATION ZONE FOR  
2 HIGHLY MIGRATORY SPECIES.—During the period that  
3 begins on the first Memorial Day after the effective date  
4 of this Act and continues through Labor Day of the same  
5 calendar year, and during the period of Memorial Day  
6 through Labor Day in each of the next 4 calendar years,  
7 no person may engage in pelagic longline fishing in the  
8 Gulf of Mexico Conservation Zone For Highly Migratory  
9 Species. For purposes of this subsection, such zone is the  
10 area of the exclusive economic zone seaward of the base-  
11 line from which the territorial sea is measured, that is en-  
12 closed by a series of geodesics connecting in succession  
13 the points at the following coordinates:

14           (1) 26 degrees 0 minutes north latitude, 97 de-  
15       grees 10 minutes west longitude (at approximately  
16       the border between the United States and Mexico).

17           (2) 26 degrees 0 minutes north latitude, 96 de-  
18       grees 0 minutes west longitude.

19           (3) 27 degrees 30 minutes north latitude, 94  
20       degrees 30 minutes west longitude.

21           (4) 27 degrees 30 minutes north latitude, 90  
22       degrees 0 minutes west longitude.

23           (5) 28 degrees 0 minutes north latitude, 90 de-  
24       grees 0 minutes west longitude.

1 (6) 28 degrees 0 minutes north latitude, 89 de-  
2 grees 30 minutes west longitude.

3 (7) 29 degrees 0 minutes north latitude, 87 de-  
4 grees 30 minutes west longitude.

5 (8) 29 degrees 0 minutes north latitude, 86 de-  
6 grees 0 minutes west longitude.

7 (9) 29 degrees 40 minutes north latitude, 85  
8 degrees 20 minutes west longitude (at Cape San  
9 Blas, Florida).

10 (d) MID-ATLANTIC BIGHT CONSERVATION ZONE.—  
11 Every year, during the period of June 1 through Sep-  
12 tember 30, no person may engage in pelagic longline fish-  
13 ing in the Mid-Atlantic Bight Conservation Zone. For pur-  
14 poses of this subsection, such zone is all waters of the ex-  
15 clusive economic zone in the Atlantic Ocean north of 35  
16 degrees north latitude and west of 71 degrees west lon-  
17 gitude.

18 (e) SCIENTIFIC RESEARCH EXCEPTION.—The re-  
19 strictions under this section on fishing do not apply to pe-  
20 lagic longline fishery research authorized by the Secretary.  
21 No fish caught under the research program may be sold  
22 unless authorized by the Secretary.

23 **SEC. 7. PELAGIC LONGLINE FISHING VESSEL PERMIT**  
24 **HOLDER COMPENSATION PROGRAM.**

25 (a) VOLUNTARY COMPENSATION PROGRAM.—

1           (1) IN GENERAL.—The Secretary shall conduct  
2       a voluntary Pelagic Longline Vessel Permit Holder  
3       Compensation Program, under which the Secretary  
4       shall buy in accordance with this section Directed  
5       Swordfish Initial Limited Access Permits and Tuna  
6       Longline Permits with Incidental Swordfish and  
7       Shark that are in effect under the Magnuson-Ste-  
8       vens Act from each eligible permit holder, by paying  
9       to the eligible permit holder the applicable com-  
10      pensation amount under subsection (d).

11          (2) ELIGIBLE PERMIT HOLDERS.—A person  
12      who is the holder of a permit referred to in para-  
13      graph (1) shall be an eligible permit holder for pur-  
14      poses of this section.

15          (3) CONSISTENCY WITH MAGNUSON-STEVENSON  
16      ACT.—To ensure its effectiveness and equity, such  
17      program shall be carried out consistent with the  
18      standards for capacity reduction programs under  
19      section 312(b) of the Magnuson-Stevens Act (16  
20      U.S.C. 1861a(b)).

21          (b) INELIGIBILITY DUE TO PERMIT OR VESSEL  
22      TRANSFER AFTER NOVEMBER 10, 1999.—The Secretary  
23      shall not purchase a permit under this section if the vessel  
24      authorized to engage in fishing under the permit, or any  
25      Federal fishing permit or license applicable to that vessel,



1 is transferred to a different person after November 10,  
2 1999.

3 (c) COMPENSATION NOTIFICATION.—No later than  
4 15 days after the date of enactment of this Act, the Sec-  
5 retary shall, by certified mail return receipt requested, ad-  
6 dressed to each eligible permit holder, notify each eligible  
7 permit holder of—

8 (1) the compensation provisions of this Act; and

9 (2) any other compensation instructions or  
10 guidance that the Secretary may establish within  
11 such 15-day period other than by rule.

12 (d) COMPENSATION AMOUNT.—

13 (1) IN GENERAL.—The compensation amount  
14 shall be a payment of—

15 (A) \$50,000 per eligible permit holder;  
16 plus

17 (B) for each eligible permit holder that re-  
18 ported to the National Marine Fisheries Service  
19 any landings of highly migratory species by any  
20 vessel authorized to be used for fishing under  
21 the permit or permits for which the payment is  
22 made for the period beginning on January 1,  
23 1999, and ending on October 1, 1999, a land-  
24 ing payment that the Secretary determines in  
25 accordance with subsection (e).

1           (2) REDUCTION.—The compensation amount  
2       determined under paragraph (1) shall be reduced by  
3       the amount of any lien, judgment, or other such  
4       final obligation due the United States from the eligi-  
5       ble permit holder. Before making payment under  
6       this section, the Secretary shall identify all such out-  
7       standing obligations with respect to an eligible per-  
8       mit holder and notify that person of the amount of  
9       the reduction under this paragraph and the obliga-  
10      tions taken into account.

11       (e) LANDING PAYMENT DETERMINATION.—The Sec-  
12      retary's determinations of all landing payments under sub-  
13      section (d) shall be final and shall be made as follows:

14           (1) The basis for each landing payment shall be  
15       the gross ex-vessel value of all fish (regardless of  
16       species) landed by the eligible vessel during any 1  
17       calendar year in the period beginning with the cal-  
18       endar year 1992 and ending with calendar year  
19       1998.

20           (2) The amount of each landing payment shall  
21       be 100 percent of such basis, up to \$400,000.

22           (3) No later than 75 days after the date of en-  
23       actment of this Act each permit holder who desires  
24       to be compensated under this section must—

1 (A) advise the Secretary which single cal-  
2 endar year from 1992 through 1998 the permit  
3 holder chooses pursuant to paragraph (1) as  
4 the basis for the permit holder's landing pay-  
5 ment; and

6 (B) submit to the Secretary the permit  
7 holder's documentation for the gross ex-vessel  
8 value of all fish (regardless of species) landed  
9 by the eligible vessel during the basis year cho-  
10 sen, that—

11 (i) is the form of trip tickets or any  
12 relevant criteria required by the Secretary  
13 to verify eligibility (or other landing docu-  
14 mentation issued by the first ex-vessel fish  
15 buyer or buyers) for the eligible vessel that  
16 clearly establishes on their face the identity  
17 and location of the first fish buyer;

18 (ii) states each vessel from which the  
19 fish was bought;

20 (iii) states the date the fish was  
21 bought, and how many pounds of each spe-  
22 cies of fish was bought; and

23 (iv) states how much per pound the  
24 landing vessel was paid for each species of

1 fish bought (no other documentation shall  
2 be acceptable); or

3 (C) advise the Secretary that the permit  
4 holder does not possess adequate documentation  
5 and, consequently elects to have the Secretary  
6 calculate a default landing payment.

7 (4) If the permit holder submits adequate docu-  
8 mentation the Secretary shall use it to calculate the  
9 landing payment. If the permit holder elects to have  
10 the Secretary calculate a default landing payment  
11 (or submits inadequate documentation), the Sec-  
12 retary shall calculate a default payment by applying  
13 average ex-vessel prices (where possible, for each  
14 month of landing and State or area of landing as  
15 maintained in the National Marine Fisheries Serv-  
16 ice's databases) to each pound of species of fish  
17 landed by the permit holder's eligible vessel during  
18 the basis year that the permit holder chooses.

19 (f) COMPENSATION OFFER.—No later than 135 days  
20 after the date of enactment of this Act, the Secretary  
21 shall, by certified mail return receipt requested, addressed  
22 to each eligible permit holder at its record address, offer  
23 each eligible permit holder compensation for an amount  
24 determined in accordance with this section. The Sec-

1 retary's offer shall be final and not subject to negotiation  
2 or counteroffer.

3 (g) COMPENSATION OFFER ACCEPTANCE.—

4 (1) IN GENERAL.—Each eligible permit holder  
5 who desires to be compensated in accordance with  
6 this Act must accept the Secretary's compensation  
7 offer no later than 165 days after the date of enact-  
8 ment of this Act. Such acceptance—

9 (A) must be in writing signed by the per-  
10 mit holder or permit holder's duly authorized  
11 representative and delivered to the Chief, Fi-  
12 nancial Services Division, National Marine  
13 Fisheries Service, 1315 East-West Highway,  
14 Silver Spring, MD 20910–3282, and the ac-  
15 ceptance letter shall include any necessary di-  
16 rect wire transfer instructions;

17 (B) shall constitute the permit holder's ir-  
18 revocable consent for all other restrictions that  
19 this Act permanently requires with respect to  
20 the eligible vessel, and all such restrictions shall  
21 apply to the permit holder on and after the ef-  
22 fective date under section 6(f); and

23 (C) shall be accompanied by all commercial  
24 fishing permits and licenses held by the permit  
25 holder that are applicable to the eligible vessel.

1           (2) DELIVERY BY MAIL.—If the acceptance is  
2       mailed, it must be mailed by certified mail return re-  
3       ceipt requested. The Secretary shall consider the  
4       date of acceptance to be the date on which it was  
5       mailed.

6           (3) DELIVERY OTHER THAN BY MAIL.—If ac-  
7       ceptance is delivered by any other means, the Sec-  
8       retary shall consider the date of acceptance to be the  
9       date on which the Secretary first received the ac-  
10      ceptance. The Secretary's determinations regarding  
11      the timeliness of the acceptance shall be final.

12       (h) COMPENSATION PAYMENT.—No later than 195  
13      days after the date of enactment of this Act, the Secretary  
14      shall, in accordance with this section, pay compensation  
15      in full to each permit holder whose acceptance of the Sec-  
16      retary's offer was timely.

17       (i) FEDERAL LOAN.—Under the authority of title XI  
18      of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f  
19      and 1279g), the Secretary shall provide up to \$20,000,000  
20      through a direct loan obligation for any payments author-  
21      ized under this section that are not fully paid for by funds  
22      appropriated under subsection (j) of this section. These  
23      payments shall be treated as payments under a fishing ca-  
24      pacity reduction program established under section 312 of  
25      the Magnuson-Stevens Act (16 U.S.C. 1861a). Notwith-

1 standing subsection (b)(4) of such section 1111, the debt  
2 obligation under this subsection shall have a maturity of  
3 30 years.

4 (j) AUTHORIZATION OF APPROPRIATIONS.—There  
5 are authorized to be appropriated—

6 (1) \$100,000 for the costs (as that term is de-  
7 fined in section 502 of the Congressional Budget  
8 and Impoundment Control Act of 1974 (2 U.S.C.  
9 661a)) for the \$20,000,000 direct loan authorized  
10 under this section; and

11 (2) \$30,000,000 for the balance of the com-  
12 pensation payments authorized under this section.

13 (k) BLENDED FUNDING SOURCE.—All funds appro-  
14 priated under subsection (j) shall be available for the pay-  
15 ment authorized under this section and shall be applied  
16 so as to ensure that 40 percent of the cost of such pay-  
17 ments is derived from the direct loan authorized under  
18 this section and 60 percent of the cost of such payments  
19 is derived from funds appropriated for payment under this  
20 section. If any amounts appropriated remain unexpended  
21 and unobligated after all payments are made under this  
22 section, the remainder of such amounts shall be available  
23 for obligation and expenditure for the research program  
24 established under section 12.

1 **SEC. 8. RESTRICTIONS ON VESSELS.**

2 (a) IN GENERAL.—

3 (1) REVOCATION OF FISHING PERMITS.—All  
4 Federal and State commercial fishing permits and li-  
5 censes held by an eligible permit holder accepting  
6 compensation under section 7 shall be revoked upon  
7 receipt by the Secretary of the letter of acceptance  
8 under section 7(g).

9 (2) USE OF VESSEL PROHIBITED.—A vessel  
10 that was authorized to engage in fishing under a  
11 permit or license that is revoked under this section  
12 shall never again be used by any person anywhere in  
13 the world (regardless of the national status of such  
14 person) for commercial fishing.

15 (b) INELIGIBILITY FOR FISHERIES ENDORSE-  
16 MENT.—Section 12108(d) of title 46, United States Code,  
17 is amended by inserting “, or a vessel whose commercial  
18 fishing permits and licenses have been revoked under sec-  
19 tion 8(a)(2) of the Atlantic Highly Migratory Species Con-  
20 servation Act of 2000,” before “is not eligible”.

21 (c) TRANSFER TO FOREIGN OWNERSHIP OR REG-  
22 ISTRY PROHIBITED.—

23 (1) PROHIBITED TRANSFER.—No person may—  
24 (A) sell, lease, charter, deliver, or in any  
25 manner transfer, or agree to sell, lease, charter,  
26 deliver, or in any manner transfer, to a person



1           who is not a citizen of the United States, any  
2           interest in or control of a vessel that was au-  
3           thorized to be used to engage in fishing under  
4           a permit or license revoked under this section;  
5           or

6                   (B) place such a vessel under foreign reg-  
7           istry or operate that vessel under the authority  
8           of a foreign country.

9           (2) VOID EFFECT.—Any sale, lease, charter, de-  
10          livery, or transfer of a vessel, or interest in or con-  
11          trol of a vessel, in violation of this subsection is void.

12          (d) PENALTIES.—

13                   (1) CRIMINAL PENALTY.—Any person that  
14          knowingly violates this section, or knowingly submits  
15          false documentation for the landing payment under  
16          section 7, shall be fined under title 18, United  
17          States Code, imprisoned for not more than 5 years,  
18          or both.

19                   (2) FORFEITURE.—A vessel (including its fish-  
20          ing gear, furniture, appurtenances, stores, and  
21          cargo) may be seized by, and forfeited to, the United  
22          States Government if—

23                           (A)(i) the vessel is placed under foreign  
24                           registry or operated under the authority of a  
25                           foreign country in violation of this section;

1           (ii) a person knowingly sells, leases, char-  
2           ters, delivers, or transfers the vessel, or an in-  
3           terest in or control of that vessel, in violation  
4           of this section;

5           (B) the vessel is used for commercial fish-  
6           ing in violation of this section; or

7           (C) a permit holder submits false docu-  
8           mentation for the landing payment under sec-  
9           tion 7 with respect to landings made, or alleged  
10          to have been made, using the vessel.

11          (3) CIVIL PENALTY.—A person that sells,  
12          leases, charters, delivers, or transfers a vessel (or an  
13          interest in or control of a vessel) in violation of this  
14          section, uses a vessel for commercial fishing in viola-  
15          tion of this section, or submits false documentation  
16          for the landing payment under section 7 is liable to  
17          the United States Government for a civil penalty of  
18          not more than \$10,000 for each violation.

19          (e) VESSEL IDENTIFICATION SYSTEM.—The Sec-  
20          retary of Transportation shall ensure that, for each vessel  
21          that was authorized to be used to engage in fishing under  
22          a permit or license that is revoked under this section, in-  
23          formation is recorded and maintained in the vessel identi-  
24          fication system established under chapter 125 of title 46,  
25          United States Code, stating that—

1           (1) the vessel is prohibited under this Act from  
2       engaging in commercial fishing anywhere in the  
3       world;

4           (2) the vessel is not eligible for any commercial  
5       fishing permit or license, regardless of whether the  
6       permit or license is issued by the Federal Govern-  
7       ment, or a State government or political subdivision  
8       thereof; and

9           (3) use of the vessel in any commercial fishing  
10      operation may result in Federal civil and criminal  
11      penalties and forfeiture of the vessel and its cargo  
12      and equipment.

13 **SEC. 9. RESTRICTIONS ON COMPENSATED ELIGIBLE PER-**  
14 **MIT HOLDERS.**

15      Any eligible permit holder who has been compensated  
16      under section 7 is prohibited from reentering the Directed  
17      Swordfish Limited Access Fishery or Atlantic Tuna  
18      Longline Fishery.

19 **SEC. 10. REPAYMENT OF DIRECT LOAN.**

20      (a) IN GENERAL.—There is established a fishery con-  
21      servation fee system, to be administered by the Secretary,  
22      for repayment of the direct loan made under section 7(f).  
23      The commercial share of the loan shall be repaid with fees  
24      received by the United States under subsection (b), and  
25      the recreational share of the loan shall be repaid with fees

1 received by the United States under subsection (c). Fees  
2 under this section shall be established without regard to  
3 the requirements of section 304 or 312 of the Magnuson-  
4 Stevens Act (16 U.S.C. 1854 and 1861a).

5 (b) COMMERCIAL SHARE.—

6 (1) DESCRIPTION.—The commercial share of  
7 the loan made under section 7(f) shall be 50 percent  
8 of the original principal amount of the loan plus all  
9 interest accruing on that 50 percent of the principal  
10 amount.

11 (2) METHOD OF PAYMENT.—The Secretary  
12 shall, for the repayment of the commercial share of  
13 the loan obligation, plus associated interest, estab-  
14 lish a fee, that—

15 (A) shall be an amount determined by the  
16 Secretary to be sufficient to amortize the com-  
17 mercial share over the loan term of 30 years,  
18 not to exceed five percent of the ex-vessel value  
19 of all Atlantic highly migratory species sold by  
20 highly migratory species dealers;

21 (B) shall be collected beginning on the  
22 365th day after the date of enactment of this  
23 Act and continue without interruption, regard-  
24 less of the loan's maturity until such commer-  
25 cial share is fully paid; and

1 (C) shall be deducted by each highly mi-  
2 gratory species dealer from all proceeds received  
3 from the sale by the dealer of all Atlantic highly  
4 migratory species and shall be accounted for  
5 and forwarded by the dealer to the Secretary in  
6 the following manner:

7 (i) The fee for all proceeds received  
8 during each month shall be forwarded by  
9 not later than the 15th calendar day of  
10 each month immediately following the  
11 month for which the fees were collected,  
12 and fee payments shall be late if not re-  
13 ceived at the lock box account designated  
14 under clause (iii) by the 20th calendar day  
15 of each such immediately following month.

16 (ii) All fees forwarded shall include a  
17 settlement sheet that establishes the total  
18 proceeds received during the previous  
19 month, the total pounds of all Atlantic  
20 highly migratory species sold upon which  
21 such receipts were based, and the total fee  
22 forwarded.

23 (iii) All fees shall be forwarded to a  
24 lock box account that the Secretary shall  
25 designate by a letter to each highly migra-

1           tory species dealer holding a highly migra-  
2           tory species dealer's permit at its record  
3           address.

4           (iv) All fee matters shall be in accord-  
5           ance with such other conditions as the Sec-  
6           retary shall establish, and may amend  
7           from time to time by a letter (but not by  
8           regulation or any other form of notice)  
9           sent to each highly migratory species deal-  
10          er holding a highly migratory species deal-  
11          er's permit at its record address.

12          (3) DUTY OF PROMPT NOTIFICATION.—The  
13          Secretary shall immediately notify highly migratory  
14          species dealers and swordfish access permit holders  
15          when the commercial share has been fully repaid and  
16          the collection requirement terminates. This shall be  
17          accomplished by the Secretary's letter sent to each  
18          highly migratory species dealer, holding a highly mi-  
19          gratory species dealer's permit and each swordfish  
20          permit holder at its record address.

21          (4) AUDIT.—The Secretary may at reasonable  
22          times and places conduct audits of highly migratory  
23          species dealers' books and records to determine com-  
24          pliance with this section. Highly migratory species  
25          dealers shall furnish such books and records as the

1 Secretary may reasonably require for the conduct of  
2 such audits.

3 (5) PENALTY INTEREST ON LATE FEE PAY-  
4 MENTS.—Highly migratory species dealers shall pay  
5 penalty interest equal to one and one-half percent  
6 the full amount of each late fee payment for each  
7 month, or portion thereof, in which a late fee pay-  
8 ment remains unpaid.

9 (6) ENFORCEMENT.—The Secretary shall col-  
10 lect all unpaid fees by such manner as the Secretary  
11 considers appropriate, including bringing collection  
12 enforcement actions at law and attaching and liqui-  
13 dating highly migratory species dealers' assets.

14 (7) CONTINUING OBLIGATION.—Notwith-  
15 standing that the commercial share of the loan is  
16 not paid in full by the loan's maturity date, the fee  
17 shall continue without interruption until such time  
18 as the commercial share is paid in full.

19 (c) RECREATIONAL SHARE.—

20 (1) DESCRIPTION.—The recreational share of  
21 the loan made under section 7(f) shall be 50 percent  
22 of the original principal amount of the loan plus all  
23 interest accruing on 50 percent of the principal  
24 amount.

1           (2) METHODS OF PAYMENT.—The recreational  
2       share of the loan obligation, plus associated interest,  
3       shall be repaid through a dedicated fund adminis-  
4       tered by the National Marine Fisheries Service,  
5       through funds currently collected for Atlantic Tuna  
6       permits.

7           (3) FISHERY CONSERVATION PERMITS.—

8           (A) ISSUANCE AND SALE.—On the date of  
9       enactment of this Act and thereafter, the Sec-  
10      retary shall issue for \$25 each an annual fish-  
11      ery conservation permit to recreational vessels  
12      over 18 feet in length to persons engaged in At-  
13      lantic highly migratory species fishing. These  
14      funds shall be collected in lieu of the current  
15      Atlantic Tuna Permit.

16          (B) MEANS OF SALE OR ISSUANCE.—The  
17      Secretary—

18              (i) may, to the extent practicable, au-  
19      thorize the permits to be issued or sold by  
20      a variety of persons, including State agen-  
21      cies, retail dealers, and through convenient  
22      means, including the Internet and toll-free  
23      telephone numbers; and



1 (ii) may establish procedures for such  
2 persons to account for and forward the  
3 proceeds of sale to the Secretary.

4 (C) LIMITATION ON PERMITTING.—This  
5 highly migratory species permit shall be used to  
6 repay the recreational share of the direct loan  
7 obligation, plus associated interest, and for the  
8 purpose of future buyout programs in over-  
9 fished fisheries.

10 (4) PROHIBITION.—After the 240th day after  
11 the date of enactment of this Act, no person may en-  
12 gage in recreational fishing for an Atlantic highly  
13 migratory species from a vessel 18 feet or more in  
14 length unless the vessel has been issued a valid fish-  
15 ery conservation permit.

16 (5) DUTY OF PROMPT NOTIFICATION.—The  
17 Secretary shall immediately notify the Coast Guard,  
18 the heads of the agencies of the States that have re-  
19 sponsibility for marine fishery law enforcement, re-  
20 tail dealers and others who sell fishery conservation  
21 permits under this subsection, and the public when  
22 payment of the recreational share begins. This shall  
23 be accomplished by a Federal Register Notice, direct  
24 communication, and such other means as the Sec-  
25 retary determines are effective and appropriate.

1           (6) APPLICATION OF FEE PAYMENTS AND FOR  
2       REPAYMENT.—Money received under paragraph (3)  
3       shall be accounted for and paid by the Secretary into  
4       a subaccount of the Treasury established for the re-  
5       payment of the direct loan made under section 6(i)  
6       and for the purposes established under paragraph  
7       (3)(C).

8   **SEC. 11. PROHIBITED ACT UNDER MAGNUSON-STEVENSON**  
9                           **ACT.**

10       A person who violates this Act shall, in addition to  
11       any other penalties provided in this Act or elsewhere, be  
12       considered to have committed an act prohibited under sec-  
13       tion 307(1)(A) of the Magnuson-Stevens Act (16 U.S.C.  
14       1857(1)(A)).

15   **SEC. 12. HIGHLY MIGRATORY SPECIES BYCATCH MOR-**  
16                           **TALITY REDUCTION RESEARCH PROGRAM.**

17       (a) ESTABLISHMENT OF PROGRAM.—There is estab-  
18       lished within the National Marine Fisheries Service at the  
19       Southeast Fisheries Science Center a Pelagic Longline  
20       Highly Migratory Species Bycatch and Mortality Reduc-  
21       tion Research Program. The Program shall identify and  
22       test a variety of pelagic longline fishing gear configura-  
23       tions and uses, including recreational catch and release,  
24       and determine which of those configurations and uses are  
25       the most effective in reducing billfish bycatch mortality

1 and oceanic shark and sea turtle mortality in the pelagic  
2 longline fisheries of the Gulf of Mexico and in the Mid-  
3 Atlantic Bight Conservation Zone established under sec-  
4 tion 6. The program shall also include provision for ob-  
5 servers to be placed on pelagic longline fishing vessels for  
6 the purposes of monitoring the fishery and participating  
7 in the research program. To fund the observers, the Sec-  
8 retary shall collect a fee that shall not exceed 1 percent  
9 of the ex-vessel value of fish harvested from Atlantic and  
10 Gulf of Mexico pelagic longline vessels, and shall be col-  
11 lected at either the time of the landing, filing of a landing  
12 report, or sale of such fish during a fishing season in the  
13 last quarter of the calendar year in which the fish is har-  
14 vested.

15 (b) PROGRAM DESIGN.—The Program design shall  
16 be developed through a scientific workshop organized and  
17 convened by the Southeast Fisheries Science Center of the  
18 National Marine Fisheries Service. Knowledgeable mem-  
19 bers of the pelagic longline fishing sector, the recreational  
20 billfish and tuna sector, and the conservation community,  
21 along with scientists associated with each such entity,  
22 shall be invited to participate on the workshop design  
23 team. The Center shall make its best efforts to ensure that  
24 each such sector is fairly represented on the design team.  
25 The program design shall be submitted to the Secretary

1 no later than 120 days after the date of enactment of this  
2 Act and shall include a statistically significant rec-  
3 ommendation for the level of observer coverage on pelagic  
4 longline fishing vessels that is necessary to monitor the  
5 fishery effectively and participate in the research program.  
6 The Secretary shall aggressively monitor the mid-Atlantic  
7 bight during the months it is open to pelagic longline fish-  
8 ing to determine if there has been a substantial net in-  
9 crease in the number of vessels or effort from the remain-  
10 ing pelagic longline fleet and whether that net increase  
11 is negatively impacting billfish, shark, and turtle bycatch.  
12 If the Secretary so finds, the Secretary shall immediately  
13 report the finding to the Committee on Commerce,  
14 Science, and Transportation of the Senate and the Com-  
15 mittee on Resources of the House of Representatives,  
16 along with proposed statutory language to address the im-  
17 pact.

18 (c) REPORT TO CONGRESS.—No later than 90 days  
19 after the third year of closure of the Gulf of Mexico Con-  
20 servation Zone For Highly Migratory Species under sec-  
21 tion 6(c), the Secretary shall submit a report on the Pro-  
22 gram’s determinations to the Committee on Commerce,  
23 Science, and Transportation of the Senate and the Com-  
24 mittee on Resources of the House of Representatives. The  
25 report shall include proposed statutory language for legis-

1 lation that may be appropriate prior to the expiration of  
2 the closure of the Gulf of Mexico Conservation Zone For  
3 Highly Migratory Species.

4 **SEC. 13. REALLOCATION OF TOTAL ALLOWABLE CATCH.**

5       The Secretary shall reallocate, to the United States  
6 commercial swordfish hand gear fishing fleet, the portion  
7 of total allowable catch of swordfish by the United States  
8 pelagic longline fishing fleet that was attributable to ves-  
9 sels that were authorized to engage in fishing under per-  
10 mits and licenses revoked under section 8. Such realloca-  
11 tion shall be based on the data used to calculate landing  
12 payments under section 7(e) for such vessels.

13 **SEC. 14. MONITORING AND EVALUATION OF AREA CLO-**  
14 **SURES.**

15       (a) ANNUAL MONITORING AND EVALUATION.—The  
16 Secretary shall closely monitor and evaluate, on an annual  
17 basis, the effectiveness of the fishing area closures made  
18 by section 6.

19       (b) RESPONSE ACTION.—As a result of the moni-  
20 toring and evaluation, the Secretary shall take additional  
21 action as necessary to minimize bycatch to meet the re-  
22 quirements of the Magnuson-Stevens Act and all other ap-  
23 plicable laws.

1 **SEC. 15. VESSEL MONITORING DEVICES.**

2 (a) VESSEL MONITORING DEVICE REQUIREMENT.—  
3 After the 165th day after the date of enactment of this  
4 Act, no pelagic longline vessel shall operate within the At-  
5 lantic highly migratory species fishery without a vessel  
6 monitoring device approved by the Secretary.

7 (b) LIMITATION ON REQUIREMENT.—A vessel that is  
8 prohibited by section 8 from being used to engage in com-  
9 mercial fishing is not required to carry a vessel monitoring  
10 device under this section.

11 **SEC. 16. EFFECTIVE DATE.**

12 Sections 6 and 7 shall take effect on the date suffi-  
13 cient funds are available to carry out section 7 and section  
14 12.

15 **SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

16 There are authorized to be appropriated to the  
17 Secretary—

18 (1) \$250,000 per fiscal year for the cost of car-  
19 rying out the compensation program under section  
20 7; and

21 (2) \$3,000,000 for research under section 12;  
22 plus such other sums as may be necessary for carrying  
23 out all other functions in the Act. In addition, there are  
24 authorized to be appropriated to the Secretary not more

- 1 than \$400,000 for the Southeast Fisheries Science Center
- 2 to conduct additional research on billfish and swordfish.

○